



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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ANDREA SHERIDAN ORDIN
County Counsel

August 2, 2011

TO: SACHI A. HAMAI
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: JOHN F. KRATTL 
Senior Assistant County Counsel

RE: Avery Cody Sr., et al. v. County of Los Angeles
Los Angeles Superior Court Case No. TC 023 947

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and the Summary Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary and the Summary Corrective Action Plan be placed on the Board of Supervisor's agenda.

JFK:rfm

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Avery Cody, Sr., et al. v. County of Los Angeles, Los Angeles Superior Court Case No. TC 023 947, in the amount of \$500,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This wrongful death lawsuit concerns the use of lethal force by a Sheriff's Deputy.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Avery Cody, Sr., et al
CASE NUMBER	TC 023947
COURT	Los Angeles Superior Court, Compton Branch
DATE FILED	2/11/2010
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 500,000.
ATTORNEY FOR PLAINTIFF	The Sweeney Firm
COUNTY COUNSEL ATTORNEY	Ruben Baeza, Jr.
NATURE OF CASE	<p>Plaintiffs Avery Cody, Sr. and La Shay Meloncon, the surviving parents of Avery Cody, Jr., allege that their son was wrongfully shot and killed by Sheriff Deputies.</p> <p>The Sheriff's Department contends that the use of lethal force was objectively reasonable and necessary as Avery Cody, Jr., possessed a handgun and pointed it at the Deputy.</p> <p>Due to the risks and uncertainties of litigation, and in light of the fact that a prevailing plaintiff in a federal civil rights lawsuit is entitled to an award of reasonable attorneys' fees, a full and final settlement of the case in the amount for \$500,000 is recommended.</p>

PAID ATTORNEY FEES, TO DATE	\$	212,863.00
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PAID COSTS, TO DATE	\$	80,963.00
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Case Name: Cody Avery, Sr., et al. v. County of Los Angeles



Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	Sunday, July 5, 2009; approximately 3:40 p.m.
Briefly provide a description of the incident/event:	<p><u>Cody Avery, Sr., et al. v. County of Los Angeles</u> Summary Corrective Action Plan No. 2011-017</p> <p>On Sunday, July 5, 2009, at approximately 3:40 p.m., two Los Angeles County deputy sheriffs assigned to the Los Angeles County Sheriff's Department's Operation Safe Streets Bureau were driving an unmarked patrol car north on Poinsettia Avenue, south of Alondra Boulevard, Compton.</p> <p>While stopped at the intersection of Poinsettia Avenue and Alondra Boulevard, the deputies observed the plaintiff's son, 16-year-old Avery Cody, Jr., and three companions (one adult; two minors), walking west on Alondra Boulevard, west of Poinsettia Avenue. The individuals appeared to the deputy sheriffs to be members of a local street gang.</p> <p>The deputies initiated contact with the four individuals. Three of the individuals immediately stopped and walked toward the patrol car. The fourth individual, the plaintiff's 16-year-old son, hesitated. The sergeant observed the plaintiff's son use both hands to roll up the bottom of his shirt just above his waistband and grip the butt of a handgun. He then let his shirt fall back down, covering his waistband and concealing the handgun. The plaintiff's son suddenly turned and ran from the deputies. While the sergeant remained with the three individuals, the deputy followed the fleeing individual.</p> <p>As the plaintiff's son was running, the deputy saw him remove the handgun from his waistband. He ran onto Alondra Boulevard and when he reached the middle of the eastbound lanes, he turned toward the deputy with the handgun in his left hand. Fearing for his life, the deputy fired two rounds from his duty weapon, striking the plaintiff's son.</p> <p>The plaintiff's son was transported to Saint Francis Medical Center where he was pronounced dead.</p>

1. Briefly describe the root cause(s) of the claim/lawsuit:

The plaintiff, father of the deceased, claims damages for the wrongful death of his son.

County of Los Angeles
Summary Corrective Action Plan

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

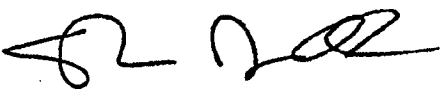
The Los Angeles County Sheriff's Department had relevant policies and procedures/protocols in effect at the time of this incident.

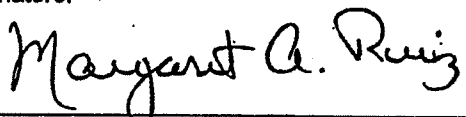
The Los Angeles County Sheriff's Department's training curriculum addresses the circumstances which occurred in this incident.

The Los Angeles County Sheriff's Department's administrative review revealed employee misconduct. Appropriate administrative action was taken.

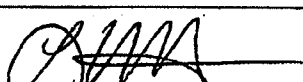
3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance).

- ☐ Potentially has Countywide implications.
- ☐ Potentially has an implication to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☐ Does not appear to have Countywide or other department(s) implications.

Name: (Risk Management Coordinator)	
Shaun J. Mathers, Captain Risk Management Bureau	
Signature: 	Date: 6/30/11

Name: (Department Head)	
Margaret A. Ruiz, Acting Chief Leadership and Training Division	
Signature: 	Date: 07-05-11

Chief Executive Office Risk Management Branch

Name: LEO COSTANTINO	
Signature: 	Date: 7/19/2011